

**TENNESSEE STATE BOARD OF EQUALIZATION**  
**BEFORE THE ADMINISTRATIVE JUDGE**

IN RE:	Crow-Farnsworth	)	
	Ward 073, Block 101, Parcel 00826C	)	Shelby County
	Industrial Property	)	
	Tax Year 2005	)	

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$649,100	\$1,146,100	\$1,795,200	\$718,080

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 20, 2006 in Memphis, Tennessee. In attendance at the hearing were registered agent Jim Schwalls and Shelby County Property Assessor's representative Rick Middleton, TCA.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of an 8.43 acre tract improved with a distribution warehouse constructed in 1974 located at 3845 Crowfarn in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$1,600,000 - \$1,650,000. In support of this position, income approaches utilizing contract and market rent were introduced into evidence. Given respective value indications of \$1,540,000 and \$1,710,000, Mr. Schwalls asserted that a value of \$1,600,000 - \$1,650,000 appeared appropriate.

The assessor contended that subject property should be valued at \$1,771,100. In support of this position, the income approach and several comparable sales were introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,750,000 based upon the collective proof. As will be discussed below, the administrative judge finds that the parties' proof was actually mutually supportive and established a value range of \$1,723,205 - \$1,771,100.

The threshold issue before the administrative judge concerns the amount of rentable area. The taxpayer's income approach assumed 105,785 square feet based upon the listing of subject property in CoStar Property. The assessor's income approach assumed 106,225 square feet based upon a staff member's calculations after actually measuring subject property. Respectfully, the administrative judge finds that the assessor's estimate should receive greater weight absent additional evidence from the taxpayer.

The next issue before the administrative judge concerns whether contract rent should be considered when it does not constitute market rent. The administrative judge finds that the Assessment Appeals Commission ruled in *First American National Bank Building Partnership*, (Davidson Co., Tax Years 1984-1987) that "the taxable value of the subject property is the entire fee simple unencumbered value and not any lesser or partial interests." Final Decision and Order at 3. See also *Hoover v. State Board of Equalization*, 579 S.W. 2d 192 (Tenn. App. 1978) which was discussed by the Commission. Accordingly, the administrative judge finds that market rent must be utilized in order to value subject property for ad valorem tax purposes.

The administrative judge finds that if Mr. Schwalls' income analysis utilizing "model rent" is modified simply by assuming 106,225 square feet of leaseable area a value indication of \$1,723,206 results.

The administrative judge finds that the only other difference in the parties' income approaches concerned their treatment of reserves. Mr. Schwalls expensed reserves at 15¢ per square foot and utilized a 9% capitalization rate. Mr. Middleton, in contrast, accounted for reserves in the capitalization rate by increasing the base rate of 9% to 9.75%. The administrative judge finds it unnecessary to resolve the parties' different approaches in this particular case because of the minimal effect on value. For example, applying Mr. Middleton's methodology to Mr. Schwalls' income approach as modified above results in a value indication of \$1,742,031.

As previously noted, the various indications of value using market rent establish a narrow value range of \$1,723,205 - \$1,771,100. The administrative judge finds that Mr. Middleton's comparable sales were not adjusted, but were simply introduced in support of his income approach. When viewed collectively, the administrative judge finds that the preponderance of the evidence supports adoption of a value of \$1,750,000.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$649,100	\$1,100,900	\$1,750,000	\$700,000


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls  
Tameaka Stanton-Riley, Appeals Manager